

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x 08 CV 01057  
MARY VIRGINIA HOLDSWORTH,

Plaintiff,

v.

**VERIFIED ANSWER TO  
COMPLAINT**

CAB EAST, LLC, AND SUZANNE W. SEGALAS, **JURY DEMANDED**

Defendants.  
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Defendants, Suzanne W. Segalas and Cab East, LLC, by their attorneys, HOEY, KING, TOKER & EPSTEIN, answer the Complaint of the Plaintiffs by stating as follows:

1. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1.
2. Deny, upon information and belief, the allegations of paragraph 2.
3. Deny, upon information and belief, the allegations of paragraph 3, except to admit that Defendant, SUZANNE SEGALAS, is a citizen of New Jersey.
4. Deny, upon information and belief, the allegations of paragraph 4.
5. Deny, upon information and belief, the allegations of paragraph 5 and respectfully refers all questions of law to this Honorable Court.
6. Admit the allegations of paragraph 6.

7. Deny, upon information and belief, the allegations of paragraph 7 and respectfully refers all questions of law to this Honorable Court.

8. Deny, upon information and belief, the allegations of paragraph 8 and respectfully refers all questions of law to this Honorable Court.

9. Deny, upon information and belief, the allegations of paragraph 9 and respectfully refers all questions of law to this Honorable Court.

10. Deny, upon information and belief, the allegations of paragraph 10.

11. Deny, upon information and belief, the allegations of paragraph 11 and respectfully refers all questions of law to this Honorable Court.

12. Deny, upon information and belief, the allegations of paragraph 12 and respectfully refers all questions of law to this Honorable Court.

13. Deny, upon information and belief, the allegations of paragraph 13 and respectfully refers all questions of law to this Honorable Court.

14. Deny, upon information and belief, the allegations of paragraph 14 and respectfully refers all questions of law to this Honorable Court.

15. Deny, upon information and belief, the allegations of paragraph 15 and respectfully refers all questions of law to this Honorable Court.

16. Deny, upon information and belief, the allegations of paragraph 16 and respectfully refers all questions of law to this Honorable Court.

17. Deny, upon information and belief, the allegations of paragraph 17 and respectfully refers all questions of law to this Honorable Court.

18. Deny, upon information and belief, the allegations of paragraph 18 and respectfully refers all questions of law to this Honorable Court.

19. Deny, upon information and belief, the allegations of paragraph 19 and respectfully refers all questions of law to this Honorable Court.

20. Deny, upon information and belief, the allegations of paragraph 20.

21. Deny, upon information and belief, the allegations of paragraph 21.

22. Deny, upon information and belief, the allegations of paragraph 22.

23. Deny, upon information and belief, the allegations of paragraph 23 and respectfully refers all questions of law to this Honorable Court.

24. Deny, upon information and belief, the allegations of paragraph 24 and respectfully refers all questions of law to this Honorable Court.

25. Deny, upon information and belief, the allegations of paragraph 25.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE THESE  
ANSWERING DEFENDANTS ALLEGE AS FOLLOWS:**

26. The injuries alleged to have been suffered by the Plaintiffs were caused, in whole or part, by the conduct of Plaintiffs. Plaintiffs' claims therefore are barred or diminished in the proportion that such culpable conduct of Plaintiffs bears to the total culpable conduct causing the damages.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE THESE  
ANSWERING DEFENDANTS ALLEGE AS FOLLOWS:**

27. The injuries and damages alleged in the Complaint were caused or contributed to by the culpable conduct including contributory negligence, assumption of the risk and/or product misuse of persons over whom these Defendants had no authority or control.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE THESE  
ANSWERING DEFENDANTS ALLEGE AS FOLLOWS:**

28. The Plaintiffs are precluded from maintaining this action by Insurance Law Article 51 in that Plaintiffs have failed to sustain a serious injury or economic loss greater than the basic economic loss as defined by that law.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE THESE  
ANSWERING DEFENDANTS ALLEGE AS FOLLOWS:**

29. That recovery, if any, on the Complaint of the Plaintiffs shall be reduced by the amounts paid or reimbursed by collateral sources in accordance with CPLR 4545(c).

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE THESE  
ANSWERING DEFENDANTS ALLEGE AS FOLLOWS:**

30. That if it is determined that these answering Defendants are responsible for the acts alleged in the Complaint then Plaintiffs failed to take appropriate action to mitigate any damages.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE THESE  
ANSWERING DEFENDANTS ALLEGE AS FOLLOWS:**

31. The injuries and damages alleged in the Complaint of the Plaintiffs were caused or contributed to by Plaintiffs's culpable conduct in assuming the risk under the conditions and circumstances existing.

WHEREFORE, these Defendants demand judgment dismissing the Complaint, together with costs and disbursements, and in the event any judgment or settlement is recovered herein against these Defendants, then these Defendants further demand that such judgment be reduced by the amount which is proportionate to the degree of culpability of any plaintiff, and these Defendants

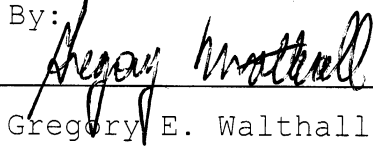
further demand judgment against each other party on the  
respective crossclaims and/or counterclaims.

DATED: April 14, 2008  
New York, New York

Yours, etc.

HOEY, KING, TOKER & EPSTEIN  
Attorneys for **Defendants**  
**SUZANNE W. SEGALAS AND CAB**  
**EAST, LLC**  
Office and Post Office Address  
55 Water Street, 29th Floor  
New York, New York 10041-2899  
(212) 612-4200

By:

A handwritten signature in dark ink, appearing to read "Gregory Walthall", is written over a horizontal line.

Gregory E. Walthall (4904)

To:

Weitz & Luxenberg, P.C.  
Gary R. Klein, Esq.  
Attorneys for Plaintiff, Mary Virginia Holdsworth  
180 Maiden Lane, 17th Floor  
New York, New York 10038

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MARY VIRGINIA HOLDSWORTH,

Plaintiff,

-against-

CAB EAST, LLC, AND SUZANNE W. SEGALAS,

Defendants.

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**FEDERAL RULE 7.1 STATEMENT  
AND VERIFIED ANSWER TO COMPLAINT**

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HOEY, KING, TOKER & EPSTEIN  
Attorneys for Defendant  
**Suzanne W. Segalas and Cab East, LLC**  
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New York, New York 10041-2899  
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